

**TITLE 15. BOARD OF PAROLE HEARINGS
(FORMERLY BOARD OF PRISON TERMS)**

**NOTICE OF PROPOSED REGULATORY ACTION
RN 06-01**

SUBJECT: *NOTICE AND CONDITIONS OF PAROLE*

NOTICE IS HEREBY GIVEN that the Board of Parole Hearings (Board) proposes to amend sections (§§) 2510, 2511, 2512 and 2513 of Title 15, Division 2, California Code of Regulations (CCR) after considering all comments, objections, and recommendations regarding the proposed action.

AUTHORITY/REFERENCE

These regulations are submitted pursuant to the Board's authority under Government Code § 12838.4, Penal Code §§ 3052, 3068, and 5076.2, and *Morrissey v. Brewer*, 408 U.S. 471 (1972), and are amended to implement, interpret, and/or make specific Health and Safety Code § 11590, Penal Code §§ 186.22, 290, 457.1, 3000, 3052, 3053, 3053.2, 3056, 3057, 3060, 3060.5, and 12020, *Armstrong v. Schwarzenegger* (2002) USDC-ND (No. C-94-2307-CW), and *Valdivia v. Schwarzenegger* (2003) USDC- ED (No. C-94-0671-LK).

PUBLIC HEARING

A public hearing regarding the proposed regulatory action has not been scheduled. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than July 14, 2006, which is the last weekday 15 days before the close of the written comment period on July 31, 2006.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the Board. ***The written comment period on the proposed regulations will commence on June 16, 2006, and will close at 5:00 p.m. on July 31, 2006.*** All comments must be submitted in writing (by mail, fax, or e-mail) to the Agency Contact Person identified in this Notice by that time in order for the comments to be considered by the Board.

Comments may be submitted to:

Lori Manieri, Regulations Coordinator
Board of Parole Hearings
1515 “K” Street, Sixth Floor
Sacramento, CA 95814
Telephone: (916) 445-5277
Facsimile: (916) 322-3475
E-mail: Lori.Manieri@cdcr.ca.gov

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

SB 737 abolished the former Youth and Adult Correctional Agency, which consisted of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Board of Corrections, the Youth Authority Board, and the Narcotic Addict Evaluation Authority, and created the Department of Corrections and Rehabilitation, which consists of the Division of Adult Operations, the Division of Adult Programs, the Division of Juvenile Justice, the Corrections Standard Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.

Government Code § 12838.4 created the Board of Parole Hearings and vested the Board with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of its predecessor entity, Board of Prison Terms.

Penal Code § 3052 vests with the Board the authority to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole outside of prison when eligible for parole.

Penal Code § 5076.2 authorizes the Board to promulgate, maintain, publish, and make available to the general public a compendium of its rules and regulations.

The federal courts in *Armstrong v. Schwarzenegger* (2002) USDC-ND (No. C-94-2307-CW) and *Valdivia v. Schwarzenegger* (2003) USDC- ED (No. C-94-0671-LK) issued court orders that the Board shall develop and implement policies and procedures that accommodate and effectively communicate with prisoners and parolees with disabilities at all parole proceedings, including parole revocation proceedings.

NECESSITY FOR THE PROPOSED AMENDMENTS

This regulatory action is necessary to amend the regulations of the Board to comply with the orders for the use of effective communication in the *Armstrong* and *Valdivia* cases.

Section 2510. General.

A reference to Government Code § 12838.4 (added by Stats. 2005, Ch. 10) was added to the authority section of the regulation.

Section 2511. Notice of Parole.

This section currently describes the contents of the notice of parole that prisoners and inmates receive prior to their release on parole.

These amendments are necessary to conform the language of the regulation to that contained in the recently amended notice of parole so that prisoners and parolees have adequate notice of their conditions of parole using effective communication as ordered by the Court in the *Armstrong* and *Valdivia* cases.

Section 2512. General Conditions of Parole.

This section currently describes the general conditions of parole contained in the notice of parole that prisoners and inmates receive prior to their release on parole.

The amendments are necessary to conform the language of the regulation to the language contained in the recently amended notice of parole so that it effectively communicates the general conditions of parole to prisoners and parolees as ordered by the Court in the *Armstrong* and *Valdivia* cases.

Section 2513. Special Conditions of Parole.

This section currently describes the special conditions of parole contained in the notice of parole.

The amendments are necessary to conform the language of the regulation to the language contained in the recently amended notice of parole so that it effectively communicates the special and special mandatory conditions of parole to prisoners and parolees as ordered in the *Armstrong* and *Valdivia* cases.

LOCAL MANDATES

The Board has determined that the proposed action imposes no mandate upon local agencies or school districts.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district which must be reimbursed in accordance with Government §§ 17500 through 17630: *None*
- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS

The Board has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because they apply only to inmates and parolees of California penal institutions.

ASSESSMENT OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Board has determined that the proposed amendments to regulations will have no effect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

CONTACT PERSON

Please direct requests for copies of the initial statement of reasons, the proposed text of the regulations, or other information upon which the rulemaking is based to:

Lori Manieri, Regulations Coordinator
Board of Parole Hearings
1515 “K” Street, Sixth Floor
Sacramento, CA 95814
Telephone: (916) 445-5277
Facsimile: (916) 322-3475
E-mail: Lori.Manieri@cdcr.ca.gov

In any such inquiries, please identify the action by using the Board’s regulation control number RN 06-01.

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above: **Teresa Arcure (916) 322-9424.**

Questions on the substance of the proposed regulatory action may be directed to: **Marc Remis, (916) 322-6729.**

Website Access: Materials regarding this proposal can be accessed from the Board’s website at [.http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html)

AVAILABILITY OF THE INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared and will make available the initial statement of reasons and the text of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all the information on which the proposal is based, is available to the public upon request from the agency contact person indicated above. Additionally, this notice of proposed action, the initial statement of reasons, and the proposed text of the regulations are available on the Board’s website at http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following the preparation of the final statement of reasons, copies may be obtained from the Board contact person or the Board’s website at [.http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html](http://www.cdcr.ca.gov/DivisionsBoards/BOPH/reg_revisions.html)

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.